

REMARKS

Claims 1-24 are pending in the above-referenced application. After two earlier restriction requirements the Examiner now alleges that the Applicant's election was not responsive because the Applicant's elections are allegedly not mutually consistent because: 1) the simple particle of FIG. 2 is not disclosed or suggested as capable of the alignment method of FIGS. 22-27; and 2) Applicant has not elected a single final use because FIG. 1 discloses a flexible use, and FIGS. 66A-C represent three different uses. In addition, the Examiner alleges that the Applicant's assertion that claims 1-24 read on the elected species is incorrect because: 1) claims 4-7 are allegedly not consonant with the election of the organic light emitter of FIG. 2; and 2) the subject matter of claims 10-17, 19 and 21-24 is not consonant with the election of FIGS. 22-27. The Examiner states that an election of a single species for prosecution on the merits must be made.

Accordingly, Applicant hereby provisionally elects the subject matter of FIGS. 1, 4, 22-27 and 66B, with traverse, corresponding to the following species, identified in the terminology and manner suggested by the Examiner:

Species Element A- Method of making:

A4- filling between two substrates, shown in FIGS 22-27.

Species Element B-Method of Polymerizing and (possibly) aligning:

The method as shown and described in conjunction with FIGS. 25-27.

Species Element C-Device Configurations:

FIG. 27.

Species Element D-Particles:

FIG. 4.

Species Element E- Final Use:

FIGS. 1 and 66B.

Claims readable on subject matter of FIGS. 1, 4, 22-27 and 66B are claims 1-3, 8, 9, 18 and 20.

Traversal

The Applicant asserts that, pursuant to MPEP § 808.01

“the particular reasons relied on by the Examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate.”

In both the present Office Action and the previous Office Action mailed November 19, 2005, the Examiner has failed to concisely state the reasons relied upon for holding that the inventions as claimed are either independent or distinct. Instead, the Examiner states that the “application contains claims directed to the following patentably distinct species.” (Office Action at page 3, paragraph 1). The Applicant asserts that the reasons relied upon by the Examiner in the Office Action mailed August 23, 2005, are not applicable to the present restriction requirement because those reasons were given for two alleged distinct inventions (i.e., Groups I and II) and the pending claims all read on Group II. The Examiner’s present requirement for species restriction creates dozens of potentially separate species of invention possibilities out of only 24 pending claims. As required by MPEP § 806.04(h), species must be patentably distinct from each other. In the present Office Action the Examiner has failed to state the reasons relied upon for holding that the dozens of species of inventions as claimed are either independent or distinct one from the other.

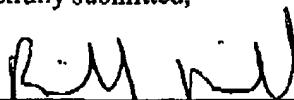
Accordingly, Applicant respectfully requests that Examiner reconsider and withdraw the present restriction requirement, and revise the restriction requirement to remove the species requirements set forth.

If the Examiner believes that a telephone conference with Applicants’ attorneys would be advantageous to the disposition of this case, the Examiner is invited to telephone the undersigned.

The Applicant believes that no fees are due with this response. If it is determined that fees are due, they may be charged to Deposit Account No. 503342, maintained by the attorneys.

Respectfully submitted,

By _____



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